

#17143
1/30/02

PATENT
Customer No. 22,852
Attorney Docket No. 07812.0019-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Hubertus A. SPAEPEN) Group Art Unit: 1754
)
Application No.: 09/248,392) Examiner: E. Nave
)
Filed: February 12, 1999)
)
CPA Filed: March 19, 2001)
)
For: IMPROVED KAOLIN CLAYS)
AND METHODS OF MAKING SAME)

Commissioner for Patents and Trademarks
Box DAC
Washington, DC 20231

Sir:

PETITION TO WITHDRAW NOTICE OF ABANDONMENT
UNDER 37 C.F.R. § 1.181

On January 10, 2002, the Office issued a Notice of Abandonment in the above-captioned application for failure to reply to an Office letter mailed June 21, 2001. Applicant respectfully requests petitions the Office to withdraw the Notice of Abandonment because the time provided by the Rule for Applicant to respond has not yet expired. Specifically, Applicant has until January 22, 2002 (January 21, 2002 being a federal holiday) to provide the necessary response.

On March 19, 2001, Applicant file a Continued Prosecution Application; however, Applicant did not submit a payment for its filing fees. Accordingly, the Office issued on June 21, 2001 a Notice to File Missing Parts of the Applicant. Applicant was provided two months in which to respond to the Notice. Since a

Notice of Missing Parts is not an Office Action and the two-month time limit is a non-statutory time limit, Applicant was entitled to utilize five (5) months of extension of time under 37 C.F.R. § 1.136(a)(1) to respond to the Notice. In total, Applicant had seven (7) months in which to respond to the Notice before Abandonment. Seven (7) months from June 21, 2001 is January 21, 2002.

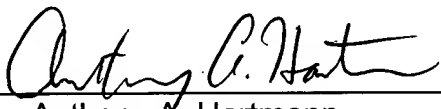
Accordingly, the Office's Notice of Abandonment is improper, premature, and should be withdrawn. Furthermore, Applicant's Preliminary Amendment, Petition for Extension of Time, and payment of fees, which are being submitted herewith, are timely filed.

If there are any other fees due in connection with the filing of this response, including any fees required for an extension of time under 37 CFR § 1.136, such an extension is requested, and the Commissioner is authorized to charge any related fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 18, 2002

By: 
Anthony A. Hartmann
Reg. No. 43,662

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com